

REMARKS

The Applicants have now had an opportunity to carefully consider the comments set forth in the Final Office Action that was mailed May 15, 2007. Additionally, the Applicants gratefully acknowledge the participation of the Examiner in a telephone interview after final rejection. It is respectfully submitted that the present claim rejections are based on a misinterpretation of the claims, a misunderstanding of the subject matter of the present application and/or a misinterpretation of the references. Accordingly, all of the rejections are respectfully traversed and reexamination and reconsideration of the application are respectfully requested.

The Office Action

In the Office Action mailed May 15, 2007, the rejections previously presented in the Office Action of November 13, 2006 were maintained. Accordingly:

claims 1-9 and **25-29** were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,930,700 to Pepper, et al. ("Pepper") in view of U.S. Patent Application Publication No. 2002/0111153 A1 to Hartmaier, et al. ("Hartmaier");

claims 10-18, 21-24 and **30** were rejected under 35 U.S.C. 103(a) as being unpatentable over Pepper in view of U.S. Patent No. 5,826,185 to Wise, et al. ("Wise"); and

claims 19 and **20** were rejected under 35 U.S.C. 103(a) as being unpatentable over Pepper in view of Wise and further in view of U.S. Patent No. 6,745,025 B1 to Chow, et al. ("Chow").

The Present Application

The present application is directed toward systems and methods to help mobile communications subscribers manage or budget their use of air time. That is, while a subscriber may be able to keep track of their air time expenditures and limit their own mobile outgoing calling, it is more difficult to limit calls made by others to the subscriber.

For example, telemarketers may call a subscriber's mobile equipment. If the subscriber answers the call, air time is consumed. The air time may be charged against the monthly allotment or may be billed to the subscriber on a per minute

basis. Where a subscriber's user equipment and mobile subscription plan provide for the display of calling line identification information (caller ID), the subscriber may manually manage air time by observing a calling line identification display indicating either a directory number, name or other identification of the calling party and decide whether or not to take the call. Such a decision may be based on the time of day or day of the week and the subscriber's familiarity with provisions of the calling plan of the subscriber. For instance, the subscriber may be willing to take the call if air time is currently unlimited based on the time of the day or the day of the week. However, some subscribers find this method of managing air time unsatisfactory because it requires that they interrupt other activity to access the calling line identification display, and it requires them to remember the details of their calling plan in order to compare the present time with the air time allocation parameters of the plan.

The present application addresses this problem by allowing the subscriber to establish a list of potential calling parties. The list includes identification information regarding the potential calling parties and allows the subscriber to associate a priority level to each of the list of potential calling parties. Incoming calls can be screened based on, for example, a calling line identification or a personal identification code (PIN) associated with the incoming calls and based on, for example, the priority information included in the list of potential calling parties and on a current cost of message units. For example, screening calls can include determining a calling line identification associated with a calling party, comparing the calling line identification with the identification information included in the listed potential calling parties, finding a calling line identification in the list of potential calling parties that matches the calling line identification associated with the calling party, and assigning a priority level associated with the calling line identification found in the list to the actual calling party. The priority of the calling party and a current cost to a subscriber of air time or a current air time ration state are considered in determining how to process the incoming call. For example, processing the call according to the current ration state and the priority level can include, for example, completing a requested call to a mobile device of the subscriber if the current ration state is unrestricted or if the current cost is low and the priority level of the calling party is high, or connecting the calling party to a message service, such as voice mail, if the current ration state is at a maximum restriction and the priority level of the calling party is low.

The Cited References

In contrast, as stipulated by the Office Action, the primary reference of the Office Action to Pepper is directed to a system and method for automatically screening and directing incoming calls that **does not include** screening calls based on a current cost of message units.

It is respectfully submitted that the secondary references do not cure this deficiency of Pepper.

For example, the newly cited reference to Hartmaier allegedly discusses a prepaid subscriber account system for use with a wireless telephone system. The system monitors a subscriber's call, deducts the cost of the call from the subscriber's prepaid account in real time, warns the subscriber during a call when the account is near depletion and terminates the call when the account is depleted. The system can also prevent the initiation of a new call when the account is depleted (Abstract). However, contrary to the assertions of the Office Action, Hartmaier does not disclose or suggest screening calls based on a current cost of message units. Paragraph 72, cited by the Office Action, indicates that if the call monitoring module determines that the subscriber does not have a sufficient account balance to accept the incoming call, the call monitoring module can respond to the FAVAIL command with an actcode parameter that indicates 'block the call'.

However, while Hartmaier deducts money from an account to pay for a call, Hartmaier does not consider the current cost of air time or a current air time ration state before completing the call in order to determine whether or not the call should be completed to the calling party, sent to voice mail or processed in some other way. It is respectfully submitted that the prevention of call initiation of Hartmaier is based on whether or not the calling party's account has any money or other credit in it, and not on the current cost of air time or a current air time ration state.

Moreover, Hartmaier does not disclose or suggest screening calls on the basis of a current cost of air time in combination with information included in a list of potential calling parties and associated priorities, as recited, for example, in **claim 1** of the present application.

Wise allegedly discloses a cellular phone system in which a cellular phone user (CPU) has a cellular phone with a prepaid amount of available air time. The CPU prepays for a particular number of airtime units. When a cell site receives a call from the CPU, the cell site communicates with a mobile telecommunications

switching office (MTSO), which recognizes a unique serial number from the cellular phone. The MTSO directs the call to a prepaid airtime transaction tracking interface (PATTI). The PATTI then checks whether the CPU's account has any available airtime units and may indicate the number of units to the CPU. If none, the PATTI does not answer the call; otherwise, the PATTI connects the call and deducts airtime units until the call is disconnected (Abstract). It is respectfully submitted that Wise does not disclose or suggest screening calls or screening calls on the basis of a current cost of message units.

The Office Action appears to rely on Wise for disclosure of screening calls comprising completing the requested call to a mobile device of the subscriber if the current ration state is unrestricted. However, the portions of Wise cited by the Office Action are, for the most part, directed to processing an outgoing call from a subscriber (i.e., CPU) and not screening calls incoming to the subscriber. An exception found by the Applicants occurs at column 3, lines 40-43, wherein it is explained that the MTSO is programmed, based on the CPU's choice, to block incoming calls or having the calling party pay. It is respectfully submitted that Wise does not disclose or suggest screening calls or making call screening decisions based on a current cost of message units.

Additionally, Wise does not disclose or suggest processing a call request received from a calling party directed at user equipment of a subscriber according to a current ration state and the priority level of the calling party, as recited, for example, in **claim 10** of the present application. The Office Action relies on the Abstract and portions of columns 1 and 2 of Wise for such disclosure. However, the cited portions of Wise discuss an outgoing call and not the screening of an incoming call, Wise does not include the subject matter for which it is relied, and Wise does not cure the deficiencies of Pepper.

Chow allegedly discloses time-of-day call forwarding in a wireless centrex services system. According to Chow, a wireless telephone subscriber can use a standard cellular/PCS telephone as a wireless extension of their desktop phone, while in the proximity of miniature radio base station capable of communicating with the PCS/cellular telephone. An alleged advantage of such a system is that a subscriber can use the same cellular/PCS telephone that provides a service in the public network in the wireless centrex environment. Additionally, the wireless centrex system provides services and features which are similar to those offered to

regular centrex telephone subscribers. Exemplary features include, caller ID, call waiting, call hold, call transfer, call forwarding and voice messaging (Abstract). The Office Action relies on Chow for disclosure of determining a current day of the week and a current time of day.

It is respectfully submitted that Chow does not disclose or suggest screening a call or making screening decisions based on a current cost of message units.

Telephone Interview Summaries

On or about June 13, 2007 and after reviewing the --Response to Arguments-- section of the Final Office Action, Mr. Thomas Tillander, one of the representatives of the Applicants, contacted the Examiner, Ms. Emem Ekong. Mr. Tillander noted that the --Response to Arguments-- section of the present Office Action and concludes with the assertion that, "the argued limitations are the same as disclosed by the reference or the limitations are written broad such that they read on the cited art." Mr. Tillander indicated that he believed the claims did not read on the cited art but that he was willing to discuss any amendments the Examiner might suggest if only to better understand how the Examiner was interpreting the language of the claims. Accordingly, Mr. Tillander asked if it might be useful to schedule a telephone interview to discuss these issues.

The Examiner asked for clarification with regard to what might be discussed. Mr. Tillander offered to prepare an email identifying items that might be discussed. The Examiner agreed to review the application and the email and to contact Mr. Tillander to discuss scheduling a telephone interview. Accordingly, Mr. Tillander prepared an email summarizing the status of the application, the cited references, the Applicants' understanding of the Examiner's position and identifying what the Applicants believe are errors in that position.

On or about June 19, 2007, the Examiner and Mr. Tillander agreed to discuss the application the following day.

On or about June 20, 2007, Mr. Tillander called the Examiner to discuss the application. During that conversation, Mr. Tillander indicated why he believed the subject matter recited in the independent claims of the present application read away from subject matter from Hartmaier and Wise cited by the Office Action. Mr. Tillander indicated that while Hartmaier discusses deducting money from an account to pay for a call, Hartmaier does not consider the current cost of air time or a current

air time ration state before completing or connecting a call in order to determine whether the call should be completed to the called party or sent to voice mail or processed in some other way. Wise discusses a system wherein before a call is completed, a check is made to determine if any air time remains available in a user's account. If air time is available, the call is completed. Again, Wise allows a call to be connect based on whether or not a party's account has a balance in it and not on a current cost of air time or an air time ration state.

By way of review, Mr. Tillander explained that the present application is directed toward screening calls based on a priority assigned to the calling party and a current cost or ration state of air time. For example, a database may be configured to assign a high priority to an employer or to a spouse. Friends, associates or children may be assigned a mid-level priority, while other acquaintances and unknown callers may be associated with a low priority. The system uses, for example, caller ID information or a personal identification number requested of a calling party to identify a caller. A list of anticipated or potential callers is accessed and the calling party identification information is used to determine if the calling party is included in the list. The list associates previously assigned priority levels to the potential callers. If the calling party is included in the list, the priority level associated with the calling party is determined. Additionally, a current cost of air time or air time ration state for the subscriber or called party is determined. The current cost or ration state and the priority level of the calling party are used as inputs to a screening process. For example, callers with a mid-level priority may be connected to the subscriber or called party when the current cost of air time or air time ration state is at a mid level or below. However, the same mid-level callers may be directed to voice mail or other processing when the current cost of air time is particularly high or when, for example, the subscriber is close to exceeding his/her monthly, weekly or daily allotment of air time and might incur substantial overage charges. On the other hand, calls from high priority callers may be completed always or maybe directed to voice mail or other processing only when overage charges would definitely be applied. Calls from low priority callers might only be completed when air time is free or during periods when unlimited air time is available to the subscriber or called party, such as is commonly available during "nights and weekends."

In this regard, the bulk of the remainder of the conversation was directed toward claim 1. Although, independent claims 10, 25 and 30 were briefly

considered.

The Examiner indicated that she may have misunderstood the application. Additionally, with regard to claim 1, the Examiner suggested that the wording related to screening calls...based on...the associated priorities and on a current cost of message units might be changed. In particular, the Examiner suggested that the word --and-- be replaced with the some other phrase that more tightly coupled the associated priorities and the current cost of message units. However, the Examiner was unable to suggest an appropriate phrase. In an effort to better understand the suggestion of the Examiner, Mr. Tillander proposed alternative phrasing. However, the proposed amendments did not fully satisfy the concerns of the Examiner or clarify the concerns of the Examiner for Mr. Tillander.

It was noted that claim 10 recites --the current ration state and the priority level of the calling party-- and that independent claims 25 and 30 include similar phrases. In this regard, it was noted that if satisfactory language for replacing the word --and--could be found for claim 1, similar amendments to independent claims 10, 25 and 30 would likely also be satisfactory. However, no agreement was reached.

Accordingly, since, as explained above, the Office Actions stipulate that Pepper does not disclose screening calls based on a current cost of message units (or a current air time ration state) and since, as explained above, Hartmaier and Wise (which are relied on for such disclosure) do not disclose or suggest screening calls based on a current cost of message units, air time or a current air time ration state associated with the subscriber, reexamination and reconsideration and withdrawal of the finality of the present Office Action are respectfully requested.

The Claims are not Obvious

The present Office Action repeats rejections originally presented in the previous Office Action wherein **claims 1-9** and **25-29** were rejected under 35 U.S.C. 103(a) as being unpatentable over Pepper in view of Hartmaier; **claims 10-18, 21-24** and **30** were rejected under 35 U.S.C. 103(a) as being unpatentable over Pepper in view of Wise; and **claims 19** and **20** were rejected under 35 U.S.C. 103(a) as being unpatentable over Pepper in view of Wise and further in view of Chow.

However, as indicated above in the Telephone Interview Summary, during the telephone interview that occurred on or about June 20, 2007, the Examiner indicated

that she may have misunderstood aspects of the present application and/or claims. Accordingly, reexamination and reconsideration in light of the comments set forth in Applicants' Response D, which was mailed February 15, 2007 and received in the Office on February 21, 2007, is respectfully requested.

Additionally, the following arguments are highlighted.

The Office Action stipulates that Pepper does not disclose screening calls based on a current cost of message units as is recited in claim 1 and relies on Hartmaier for disclosure of this aspect.

However, even if Hartmaier discusses a system that monitors calls, deducts the cost of the calls from a subscriber's account in real time, warns when the account is near depletion, terminates the call when the account is depleted and prevents call initiation when the account is depleted, Hartmaier does not disclose or suggest considering a current cost of air time before connecting the call in order to determine whether the call should be completed to the called party or sent to voice mail or processed in some other way.

In this regard, the assertion of the response to arguments section of the present Office Action that "clearly, the purpose of the call monitoring module consisting of a rating engine is for rating calls used for call screening" is respectfully traversed. The call monitoring module of Hartmaier is not for call screening. Instead, the call monitoring module is for debiting the subscriber's account after a call is connected to the called party while the call is in progress. Paragraph 87, cited by the Office Action is clearly directed at processing associated with outbound dialing and does not disclose or suggest screening incoming calls based on a current cost of air time. Paragraph 72, cited by the Office Action, discusses determining whether a subscriber has a sufficient account balance to accept an incoming call and does not disclose or suggest considering a current cost of air time or a current cost of air time in combination with a priority level assigned to a calling party.

For at least the foregoing reasons, and/or the reasons presented in Applicants' Response D, claim 1, as well as claims 2-9, which depend therefrom, is not anticipated and is not obvious in view of Pepper and Hartmaier.

Arguments similar to those submitted in support of claim 1 are submitted in support of claim 25. The Office Action stipulates that Pepper fails to disclose a system operative to conserve message units for a subscriber comprising to determine a current message unit ration state based on a current cost message units

to a subscriber and a call processor operative to process a call request of the calling party based on the determined current message unit ration state and relies on Hartmaier for this disclosure. However, the assertions of the Office Action with regard to Hartmaier represent **clear errors** of the Office Action and are respectfully traversed. Paragraph 72 discusses not accepting a call if a subscriber's account balance is insufficient. Paragraphs 79-82 discuss operations of a call monitoring module associated with monitoring the subscriber account balance (paragraph 71, column 2). The call monitoring module charges for calls. For example, paragraph 80 indicates that the call monitoring module can be instructed not to charge for incoming calls that last less than predetermined time or for calls from specified numbers. Paragraph 82 indicates that long distance charges can be automatically deducted from subscriber accounts. However, it is respectfully submitted that even if Hartmaier discusses a cost of message units to the subscriber, Hartmaier does not disclose or suggest screening calls or a call processor operative to process a call request of a calling party based on a determined priority of the calling party and a determined current message unit ration state wherein the current message unit ration state is determined based on a current cost of message units to the subscriber as is recited in **claim 25**.

For at least the foregoing reasons, and/or the reasons presented in Applicants' Response D, **claim 25**, as well as **claims 26-29**, which depend therefrom, is not anticipated and is not obvious in light of Pepper and Hartmaier.

In explaining the rejections of independent **claims 10 and 30**, the Office Action stipulates that Pepper fails to disclose a method of managing air time comprising determining a current air time ration state associated with the subscriber and processing the call request according to the current ration state. In this regard, the Office Action relies on column 1, line 61 - column 2, line 10, of Wise.

However, the cited portion of Wise discusses processing related to placing an outgoing call. Accordingly, the cited portion does not disclose or suggest screening an incoming call. Additionally, the cited portion of Wise is only concerned with whether or not there are any air time minutes available in the prepaid account of a cellular phone user or if the account has expired. It is respectfully submitted that if an account has expired, or if there are no air time minutes available in the account, there can be no air time to ration and, therefore, no air time ration state determined therefor. Accordingly, the cited portion of Wise does not disclose or suggest

managing air time or determining an air time ration state.

Additionally, the subject portion of **claim 10** recites --processing the call request according to the current ration state and the priority level of the calling party--. It is respectfully submitted that the call request referred to in this element of **claim 10** is an incoming call request. Even if Wise mentions incoming calls, the methods disclosed by Wise are related to processing associated with outgoing calls. Moreover, Wise does not disclose or suggest processing a call request a current ration state and the priority level of the calling party.

It is respectfully submitted that even if Wise suggested determining a current ration state (which is disputed), such a concept would not be fairly taken out of context and added to the system of Pepper. Wise describes a method for processing outgoing calls. Accordingly, Wise is non-analogous art with respect to methods and systems for screening incoming calls. One looking to solve problems associated with screening incoming calls would not look to Wise. Accordingly, it is respectfully submitted that there is no motivation for combining subject matter from Wise with Pepper. The motivation suggested by the Office Action (allowing, forbidding and limiting communications access with accounts for managing usage air time) is taken from information that could have been gleaned only from the present application. Wise does not disclose or suggest managing air time usage. Wise discloses allowing outgoing calls as long as air time minutes are available and not allowing calls if no air time minutes are available or if the account is time expired (column 2, lines 3-4). Accordingly, Wise is unrelated to managing air time usage. Wise simple ensures that air time is paid for in advance (prepaid). Accordingly, there is no motivation for combining subject matter from Wise with Pepper other than that which could be gleaned from the present application, and the rejections of **claims 10-18, 21-24** and **30** are based on impermissible hindsight reasoning.

For at least the foregoing reasons, and/or the reasons presents in Applicants' Response D, **claims 10-18, 21-24** and **30** are not anticipated and are not obvious in light of Pepper and Wise.

Claims 19 and **20** depend from **claim 18**, which depends from **claim 10**. In this regard, arguments similar to those submitted in support of **claims 10** and **18** are submitted in support of **claims 19** and **20**. Additionally, even if the three references can be combined, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the

desirability of the combination (MPEP 2143.01 (III)). It is respectfully submitted that the only motivation to combine Pepper, Wise and Chow is that which can be gleaned from the present application. Therefore, it is respectfully submitted that the rejection of **claims 19** and **20** are based on impermissible hindsight.

For at least the foregoing additional reasons, **claims 19** and **20** are not anticipated and are not obvious in light of Pepper, Wise and Chow taken alone or in any combination.

Telephone Interview

In the interests of advancing this application to issue the Applicant(s) respectfully request that the Examiner telephone the undersigned to discuss the foregoing or any suggestions that the Examiner may have to place the case in condition for allowance.

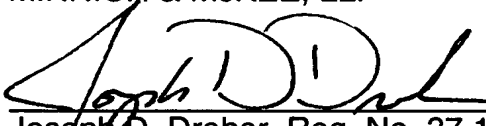
CONCLUSION

Claims 1-30 remain in the application. For at least the foregoing reasons, it is respectfully submitted that the application is in condition for allowance. Accordingly, an early indication thereof is respectfully requested.

Respectfully submitted,

FAY, SHARPE, FAGAN,
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July 25, 2007
Date


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